



May 5, 2010

**VIA ELECTRONICALLY FILED**

The Honorable Peter G. Sheridan, U.S.D.J.  
United States District Court for the  
District of New Jersey  
Clarkson S. Fisher Building & U.S. Courthouse  
402 East State Street  
Trenton, NJ 08608

The Honorable Esther Salas, U.S.M.J.  
United States District Court for the  
District of New Jersey  
Martin Luther King, Jr. Federal Building  
50 Walnut Street  
Newark, NJ 07101

**Re: *In re Par Pharmaceutical Securities Litigation*  
Master File No. 2:06-cv-03226-PGS-ES**

Dear Judges Sheridan and Salas:

This firm is Liaison Counsel for Lead Plaintiffs in the above-referenced securities fraud class action. We respectfully submit this letter in response to the May 5, 2010 letter from Eric Aronson, counsel for defendants Par Pharmaceutical Companies and Dennis J. O'Connor (the "Par Defendants").

In his letter, Mr. Aronson references, as further support of the Par Defendants' motion to "stage" discovery, a summary order rendered by the Second Circuit Court of Appeals in *Campo v. Sears Holdings Corporation*. Notwithstanding the fact that the Par Defendants once again rely upon out-of-jurisdiction legal authority in support of their motion, the summary order is inapposite because, unlike here, the district court, in an earlier decision, perceived a need for discovery of the confidential witnesses referenced in the complaint in aid of deciding the motion to dismiss.<sup>1</sup> See *Campo v. Sears Holdings Corp.*, 635 F. Supp. 2d 323, 330 n.54 (S.D.N.Y. Jul. 21, 2009) (indicating that the judge who had earlier presided over the case "ordered defendants to depose those confidential witnesses in order to determine whether they supported the allegations in the Complaint and whether he should have granted defendants' motion to dismiss.").

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<sup>1</sup> The summary order in *Campo* is also inapposite because it did not at all touch upon the issue of whether discovery should have occurred in "stages" – the sole issue posed on the pending motion. In any event, "[r]ulings by summary order" – even in the Second Circuit – "do not have precedential effect." See 2d Cir. R. 32.1.1(a).



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By contrast, this Court *rejected* the need for discovery of the confidential witnesses in this case in aid of determining the motion to dismiss, holding instead that discovery should take place “in the normal course . . . .” See *In re Par Pharm. Secs. Litig.*, No. 06-cv-3226 (PGS), 2009 U.S. Dist. LEXIS 90602, at \*34-37 (D.N.J. Sept. 30, 2009). Indeed, the Court expressly noted that the confidential witness whose declaration defendants submitted in support of such motion did not recant or correct any of the allegations of the complaint. See *id.* at \*35. Accordingly, Lead Plaintiffs respectfully submit that discovery should take place in accordance with the schedule they proposed in the Joint Report, dated as of April 16, 2010.<sup>2</sup>

Respectfully submitted,

/s/ Joseph J. DePalma  
Joseph J. DePalma

JJD:KC:nd

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<sup>2</sup> It is worth noting that the Par Defendants have already attempted to stage discovery, by, among other things, serving subpoenas on each of the individuals they believe are confidential witnesses. As we apprised Judge Salas in our May 3, 2010 letter, Lead Plaintiffs intend to move for a protective order to stop this inappropriate conduct.